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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

CHARLES CHOLMAKJIAN
5400 West Hillsdale Drive
Visalia, CA 93291

Physical Therapist License No. PT 16041

Respondent.

Case Nos. 1D-2001-62732 and 1D-2001-62866

A C C U S A T I O N

Complainant alleges:

PARTIES

1. Steven K. Hartzell ("Complainant") brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On September 5, 1989, the Physical Therapy Board of California issued License Number PT 16041 to CHARLES CHOLMAKJIAN ("Mr. Cholmakjian" or "Respondent"). This license is valid at the present time with an expiration date of August 31, 2005. There is no record of prior disciplinary action against this license.

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1 “In addition to any other disciplinary action, the Division of Medical Quality or
2 the California Board of Podiatric Medicine may impose a civil penalty of five hundred dollars
3 (\$500) for a violation of this section.”

4 8. Section 810(a)(2) of the Code states:

5 “(a) It shall constitute unprofessional conduct and grounds for disciplinary
6 action, including suspension or revocation of a license or certificate, for a health care
7 professional to do any of the following in connection with his or her professional activities:

8

9 (2) Knowingly prepare, make, or subscribe any writing, with intent to
10 present or use the same, or to allow it to be presented or used in support of any false or fraudulent
11 claim.”

12

13 **COST RECOVERY**

14 9. Section 2661.5 of the Code provides, in pertinent part:

15 “(a) In any order issued in resolution of a disciplinary proceeding before
16 the board, the board may request the administrative law judge to direct any licensee found guilty
17 of unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs
18 of the investigation and prosecution of the case.

19 (b) The costs to be assessed shall be fixed by the administrative law judge
20 and shall not in any event be increased by the board. When the board does not adopt a proposed
21 decision and remands the case to an administrative law judge, the administrative law judge shall
22 not increase the amount of the assessed costs specified in the proposed decisions.

23 (c) When the payment directed in an order for payment of costs is not
24 made by the licensee, the board may enforce the order of payment by bringing an action in any
25 appropriate court. This right of enforcement shall be in addition to any other rights the board
26 may have as to any licensee directed to pay costs.

27 (d) In any judicial action for the recovery of costs, proof of the board’s
28 decision shall be conclusive proof of the validity of the order of payment and the terms for

1 payment....”

2 10. Section 125.3 of the Code provides, in pertinent part, that the Board may
3 request the administrative law judge to direct a licensee found to have committed a violation or
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
5 and enforcement of the case.

6 **CAUSES FOR DISCIPLINE**

7 **FIRST CAUSE FOR DISCIPLINARY ACTION**

8 (Patient P.N.¹)

9 (Dishonest or Corrupt Acts, Creation of False Medical Records, Creation of False Medical
10 Records with Fraudulent Intent, Insurance Fraud.)

11 11. Mr. Cholmakjian was assigned by Tender Loving Care Staff Builders to
12 provide physical therapy to patient P.N. in October 2000

13 12. After an initial visit in October 2000, Mr. Cholmakjian did not return to
14 provide physical therapy to P.N.

15 13. Nonetheless, he turned in Adult Skilled Physical Therapy Notes falsely
16 documenting that he had provided physical therapy to this patient on:

17 October 27, 2000;

18 October 30, 2000;

19 November 1, 2000;

20 November 3, 2000;

21 November 10, 2000;

22 November 13, 2000;

23 November 15, 2000; and

24 November 20, 2000.

25
26 1. In this Accusation, initials are used in place of the full names of patients in an effort to
27 protect these individuals’ privacy. The full names of these individuals are known to
28 Respondent and records showing their full names will be produced in response to an
appropriate request for discovery.

1 14. These physical therapy notes bore forged signatures falsely indicating that
2 Ms. N. received physical therapy on each of these dates.

3 15. These documents were created in order to allow Mr. Cholmakjian to be
4 paid for professional services which he did not render. In addition, these documents were
5 prepared for use in supporting claims for health insurance payments.

6 16. Mr. Cholmakjian's conduct in creating and submitting false records of
7 medical treatment constitutes dishonest or corrupt acts related to the functions and duties of a
8 physical therapist, the creation of documents relating to the practice of medicine falsely
9 representing the existence of a state of facts, the creation of false medical records with fraudulent
10 intent, and the creation of writings with an intent to allow them to be presented in support of
11 false insurance claims.

12 17. Therefore, cause to discipline Mr. Cholmakjian's physical therapy license
13 exists under section 2660(l) (dishonest or corrupt acts), under section 2660(i) by virtue of
14 multiple violations of sections 2261 (creation of false documents) and 2262 (creation of false
15 medical records with fraudulent intent), and under section 810(a)(2) (false insurance claims).

16 SECOND CAUSE FOR DISCIPLINARY ACTION

17 (Patient V.B.)

18 (Dishonest or Corrupt Acts, Creation of False Medical Records, Creation of False Medical
19 Records with Fraudulent Intent. Insurance Fraud.)

20 18. Mr. Cholmakjian was assigned by Tender Loving Care Staff Builders to
21 provide physical therapy to Patient V.B. in November 2000.

22 19. Mr. Cholmakjian evidently provided physical therapy to this patient on
23 three dates in November 2000. However, in addition to notes for these dates, he completed and
24 submitted Adult Skilled Physical Therapy Notes for the following dates on which he provided no
25 physical therapy to this patient:

26 November 3, 2000;

27 November 8, 2000;

28 November 10, 2000;

November 13, 2000;
November 15, 2000;
November 18, 2000.
November 20, 2000; and
November 21, 2000.

20. These physical therapy notes bore forged signatures falsely indicating that Ms. B. received physical therapy on each of these dates.

21. These documents were created in order to allow Mr. Cholmakjian to be paid for professional services which he did not render. In addition, these documents were prepared for use in supporting claims for health insurance payments.

22. Mr. Cholmakjian's conduct in creating and submitting false records of medical treatment constitutes dishonest or corrupt acts related to the functions and duties of a physical therapist, the creation of documents relating to the practice of medicine falsely representing the existence of a state of facts, the creation of false medical records with fraudulent intent, and the creation of writings with an intent to allow them to be presented in support of false insurance claims.

23. Therefore, cause to discipline Mr. Cholmakjian's physical therapy license exists under section 2660(l) (dishonest or corrupt acts), under section 2660(i) by virtue of multiple violations of sections 2261 (creation of false documents) and 2262 (creation of false medical records with fraudulent intent), and under section 810(a)(2) (false insurance claims).

THIRD CAUSE FOR DISCIPLINARY ACTION

(Other Patients of Tender Loving Care)

(Dishonest or Corrupt Acts, Creation of False Medical Records, Creation of False Medical Records with Fraudulent Intent, Insurance Fraud.)

24. After discovering that Mr. Cholmakjian had falsified the foregoing patients records, the Director of Clinical Services at Tender Loving Care contacted the families of other patients and conducted an audit of 318 visit notes completed by Mr. Cholmakjian.

25. The results of the audit indicated that 132 of the 318 visit notes were

1 falsified, including seven visit notes falsely documenting physical therapy provided to Patient
2 E.W. in November 2000.

3 26. These documents were created in order to allow Mr. Cholmakjian to be
4 paid for professional services which he did not render. In addition, these documents were
5 prepared for use in supporting claims for health insurance payments.

6 27. Mr. Cholmakjian's conduct in creating and submitting false records of
7 medical treatment constitutes dishonest or corrupt acts related to the functions and duties of a
8 physical therapist, the creation of documents relating to the practice of medicine falsely
9 representing the existence of a state of facts, the creation of false medical records with fraudulent
10 intent, and the creation of writings with an intent to allow them to be presented in support of
11 false insurance claims.

12 28. Therefore, cause to discipline Mr. Cholmakjian's physical therapy license
13 exists under section 2660(l) (dishonest or corrupt acts), under section 2660(i) by virtue of
14 multiple violations of sections 2261 (creation of false documents) and 2262 (creation of false
15 medical records with fraudulent intent), and under section 810(a)(2) (false insurance claims).

16 FOURTH CAUSE FOR DISCIPLINARY ACTION

17 (Patient R.S.)

18 (Dishonest or Corrupt Acts, Creation of False Medical Records, Creation of False Medical
19 Records with Fraudulent Intent, Insurance Fraud.)

20 29. Mr. Cholmakjian was assigned by Gentiva Health Services of San Jose to
21 provide physical therapy to Patient R.S. in July 2001.

22 30. After a series of five physical therapy visits ending on August 15, 2004,
23 Mr. Cholmakjian provided no further physical therapy to this patient.

24 31. Nonetheless, Mr. Cholmakjian submitted employee time slips and clinical
25 notes falsely stating that he provided physical therapy to Ms. S. on:

26 August 7, 2001;

27 August 17, 2001;

28 August 22, 2001; and

1 August 24, 2001.

2 In addition, Mr. Cholmakjian forged Ms. S's signature on these documents.

3 32. These documents were created in order to allow Mr. Cholmakjian to be
4 paid for professional services which he did not render. In addition, these documents were
5 prepared for use in supporting claims for health insurance payments.

6 33. Mr. Cholmakjian's conduct in creating and submitting false records of
7 medical treatment constitutes dishonest or corrupt acts related to the functions and duties of a
8 physical therapist, the creation of documents relating to the practice of medicine falsely
9 representing the existence of a state of facts, the creation of false medical records with fraudulent
10 intent, and the creation of writings with an intent to allow them to be presented in support of
11 false insurance claims.

12 34. Therefore, cause to discipline Mr. Cholmakjian's physical therapy license
13 exists under section 2660(l) (dishonest or corrupt acts), under section 2660(i) by virtue of
14 multiple violations of sections 2261 (creation of false documents) and 2262 (creation of false
15 medical records with fraudulent intent), and under section 810(a)(2) (false insurance claims).

16 PRAYER

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein
18 alleged, and that following the hearing, the Physical Therapy Board issue a decision:

19 1. Revoking or suspending License Number PT 16041 issued to CHARLES
20 CHOLMAKJIAN;

21 2. Ordering CHARLES CHOLMAKJIAN to pay the Physical Therapy Board
22 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
23 Professions Code sections 2661.5 and 125.3; and

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3. Taking such other and further action as deemed necessary and proper.

DATED: September 27, 2004

Original Signed By:
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant